Supreme Court, U.S.
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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

In re Master Isidoro Rodriguez-Hazbun,
Petitioner.

To the Respondents: The Judges of the Supreme Court of Virginia; The Judges of Court of Appeals of Virginia; Judges of the Fairfax County Circuit Court; The Judges of the Fairfax County Juvenile & Domestic Relations District Court; The Judges of the U. S. Court of Appeals for the District of Columbia Circuit; The Hon. Judge Richard W. Roberts, U. S. Dist. Ct. D.C. ; The U. S. Department of State; and its contractor, The National Center for Missing and Exploited Children.

PETITION FOR EXPEDITED WRIT OF MANDAMUS AND PROHIBITION PURSUANT TO ARTICLE 2, 11, & CHAPTER IV OF THE HAGUE CONVENTION; ICARA; AND CONGRESSIONAL RESOLUTION 293.

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Since January 27, 2003, the record of the past 616 days confirms Respondents' use of unauthorized polices and practices that violate their judicial and ministerial authority and duties mandated by Congress to expeditiously secure Petitioner's international right of visitation with his father pursuant to Articles 2, 11, and Chapter IV of the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980; the provisions of The International Child Abduction Remedies Act 42 U.S.C. § 11601 *et seq.*; and House Concurrent Joint Resolution 293, May 23, 2000. Thus, Respondents' duties are "clear and indisputable." However, Respondents' have intentionally disregarded the law, making no other alternative remedies available to Petitioner to secure his right prior to the end of the effective date of the Treaty upon his 16th birthday on March 10, 2005. Thus, to secure compliance with the law by these government entities, and instrumentality, a Writ of Mandamus and Prohibition must be issued.

QUESTION PRESENTED FOR REVIEW

I. WHETHER A WRIT OF MANDAMUS AND PROHIBITION MUST BE ISSUED TO COMPEL RESPONDENTS TO CEASE AND DESIST THEIR POLICIES AND ACTIONS DISREGARDING THE TREATY AND FEDERAL LAW--SO TO COMPEL THEIR EXPEDITIOUS SECURING OF THE PETITIONER'S INTERNATIONAL RIGHT OF VISITATION WITH HIS FATHER IN THE UNITED STATES FOR HIS 2004 CHRISTMAS VACATION TO BEGIN IN 70 DAYS, AS WELL AS HIS VACATIONS IN 2005, 2006, AND 2007?

LIST OF PARTIES

Petitioner Master Isidoro Rodriguez-Hazbun is a 15 and a half years-old citizen of the United States.

Respondent, The Judges of the Supreme Court of Virginia, Richmond, Virginia.

Respondent, The Judges of the Court of Appeals of Virginia, Richmond, Virginia.

Respondent, The Judges of the Fairfax County Circuit Court, Fairfax, Virginia.

Respondent, The Judges of the Fairfax County Juvenile & Domestic Relations Court, Fairfax, Virginia.

Respondent, The Judges of the United States Court of Appeals for the District of Columbia Circuit, Washington, D.C..

Respondent, U.S. District Court Judge Richard W. Roberts, Washington, D.C..

Respondent, The United States Department of State, The Office of Children Issues, Bureau of Consular Affairs, Washington, D.C..

Respondent, The National Center for Missing and Exploited Children, Alexandria, Virginia.

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STATEMENT OF JURISDICTION

The supervisory authority of this Court is invoked under 28 U.S.C. § 1651(a), Rule 20 of the Rules of this Court, Article 2 and 11 of the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980; and 42 U.S.C. § 11601(b)(4) and § 11603 of the International Child Abduction Remedies Act.

TREATY, FEDERAL STATUTES, and REGULATION INVOLVED

The Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11,670, 19 I.L.M. 1501, Introduction B–1

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STATEMENT OF THE CASE

Petitioner Master Isidoro Rodriguez-Hazbun ("Isidoro") is a fifteen and a half-year-old boy, who despite being a citizen of the United States (A-1), was forced from the United States to the Republic of Colombian on June 11, 2002, by the Hon. Judge T.S. Ellis III's, U.S. District Court E.D. VA, disregarding of Isidoro's father's fundamental rights as a citizen of the United State and the father's residual parental rights guaranteed under the Joint Custody Settlement Agreement entered into and unchanged since August 1, 1997 (A-2),[2] as well as disregarding Isidoro's fundamental

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[2]The Joint Custody Settlement Agreement (A–2) was entered between Isidoro's parents under the Republic of Colombia Civil Code Title XII, Article 253 and Article 264, *Legis*, ed. 2002, which consistent with VA Code § 20-124.01 assures both parents their residual right and responsibility for the care, control and

rights, disregarding Isidoro's preference as a mature 13-year-old boy capable of deciding that his "best interest" was to reside in the United States with his father, and disregarding Isidoro's right to be away form the dangers in the Republic of Colombia as a "zone of war" for U.S. citizens who are warned not to enter that country by the U.S. State Department–in short by the federal courts disregarding the exception to Chapter III of the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980 ("Treaty"),*Escaf v. Rodriguez*, 200 F.Supp. 2d 603 (E.D. Va. 2002, T.S. Ellis III, J.); affirmed in unpublished decision in *Hazbun v. Rodriguez*, 52 Fed. Appx. 204 (4th Cir. 2002), cert. denied, U.S. Supreme Court Docket No. 02-1268, March 3, 2003).

Since being shanghaied to the Republic of Colombia from the United States by the federal courts disregarding the exceptions under Chapter III of the Treaty, Isidoro has also been denied of the expedited securing of his rights under a Joint Custody Settlement Agreement to international access (hereinafter "visitation" as defined by 42 U.S.C. § 11603(7)) with his father in the United States mandated by Articles 2 (B--1), 11 (B--2), and Chapter IV (B--2) of the Treaty, 42 U.S.C. § 11601 (a)(4) (B--3), 51 Fed. Reg. 10,513 (1986) (B–5), and ¶2 & ¶3 of Resolution 293(A–10), by the use of unauthorized policies and practices to

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authority to make decisions concerning Isidoro, as well as for visitation. No modification or amendment were ever made to these parental rights–as well as Isidoro's rights of access with his father. (A-5)

not comply with their ministerial duties by the United States Department of State, The Office of Children Issues ("U.S. Central Authority"); and its contractor acting as an "instrumentality of government," the National Center for Missing and Exploited Children ("NCMEC").[3]

This noncompliance with the ministerial duties mandated by the Treaty and Congress by the U.S. Central Authority and NCMEC is in part based on at least three of their current unauthorized policies and practices which are taught to the judiciary, including: (i) disregarding 42 U.S.C. § 11603 grant of concurrent jurisdiction to State courts so to limit Treaty litigation to federal courts; (ii) disregarding the exception under the Treaty including fundamental rights of citizens of the United States exception, disregarding the "best interest" and preference of the child exception, and disregarding the "zone of war"; and, (iii) disregarding 42 U.S.C. § 11606(c) so to not promulgate regulations in the Code of Federal Regulations implementing Articles 2, 11, and Chapter IV of the Treaty, and 51 Fed. Reg. 10,513 (1986) (B–5), and so to thereby

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[3]The NCMEC is an "instrumentality of government" in accordance with the Cooperative Agreement with the U.S. Central Authority and the Department of Justice (A–24). The NCMEC has received over $100 million in grants and awards since 1999 to provide the administrative process in the United States for any expedited petition to secure international visitation rights pursuant to Article 2, Article 11, and Chapter IV of the Treaty and 42 U.S.C. § 11601 and § 11603. *See* House Concurrent Joint Resolution 293, May 23, 2000 ("Resolution 293")(A-7).

assume away the mandated judicial and ministerial duties to secure international visitation rights.

These unauthorized policies of the U.S. Central Authority and NCMEC are taught to Federal and State judges through publications, training, briefings, and judicial conferences. *See* U.S. Central Authority Website; *see also* Section 4.3, Judicial Training, page 26 Good Practice in Handling Hague Abduction Convention Return Applications (2002), by Prof. Nigel Lowe and Sarah Armstrong; *International Child Abduction Database (INCADAT)*, at http: www.incadat.com; *and "The Judges' Newsletter,"* Volume III Autumn 2001, published by Butterworths LexisNexis.

Because of these unauthorized policies and malicious acts of the U.S. Central Authority and the NCMEC, on January 27, 2003 Isidoro and his father filed an action for damages and to secure their rights of visitations by the issuance of a Writ of Mandamus to the U.S. Central Authority, and the NCMEC to compel their compliance with their ministerial duties to pursuant to Articles 2 (B--1), 11 (B--2), and Chapter IV (B--2) of the Treaty, 42 U.S.C. § 11601 (a)(4) (B--3), 51 Fed. Reg. 10,513 (1986) (B–5), and ¶2 & ¶3 Resolution 293(A–10), *Isidoro Rodriguez, father of minor son, Isidoro Rodriguez-Hazbun v. National Center for Missing and Exploited Children, et al.,* 03-CV-0102 (RWR) U.S. District Court for D.C.)(*"Isidoro I"*). However, in *Isidoro I* the Hon. Judge Richard Roberts ("Judge

Roberts") refused to act expeditiously as required by Articles 2 and 11 of the Treaty.[4]

Thus due to Judge Roberts acting outside of his jurisdiction by refusing to comply with Article 2 of the Treaty, a petition for an expedited writ of mandamus seeking compliance by the U.S. Cental Authority and the NCMEC with their ministerial duties under Chapter IV of the Treaty was filed in March 2003, *In re Isidoro Rodriguez,Esq., and Isidoro Rodriguez-Hazbun*, United States Court of Appeals with the District of Columbia, Docket No. 03-5092. But on April 17, 2003, the Court of Appeals disregarded the Complaint and motions filed in the District Court so to deny the petition--stating surreally that "the request must be brought before the district court in the first instance." (A–36).[5]

In response to the federal courts acting outside of their jurisdiction in *Isidoro I*, mandated by Articles 2 (B--1), 11 (B--2), and Chapter IV (B--2) of the Treaty, 42 U.S.C. § 11601 (b)(B)(4) (B--3), 51 Fed. Reg.

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[4]To date after the passage of 616 days from the filing of the Complaint in *Isidoro I*, Judge Roberts has not acted on any of the motions for expedited consideration, or the request for issuance of a statement for delay in conducting proceeding to secure visitation rights (A-28), despite the filing of a motion for judicial notice of the status of the NCMEC receipt of more than $100 million as an "instrumentality of government" (A–24), and motions for a FRCP Rule 16 Discovery Conference pursuant to the Article 2 and 11 of the Treaty (A-37).

[5]On October 14, 2003, this Court denied a Petition for Writ of Mandamus Record No. 03-301.

10,513 (1986) ¶ D (B–6), and ¶2 & ¶3 of Resolution 293(A–10), pursuant to the concurrent jurisdiction to adjudicate petitions under the Treaty, 42 U.S.C. § 11603 (B–4), so to permit his spending his 2003 Summer vacation with his father in the United States, Isidoro filed on June 11, 2003 a petition pursuant to the Treaty and ICARA, for the expedited securing of visitation rights by the Fairfax County Juvenile and Domestic Relations District Court of the Commonwealth of Virginia ("Fairfax J&D Court"), *Master Isidoro Rodriguez-Hazbun, Petitioner, v. National Center for Missing and Exploited Children and Amalin Hazbun Escaf*, Case No. JJ-347-050-01-01 (*"Isidoro II"*). This is the original action filed over three years ago by Isidoro on July 13, 2001, to modify the Joint Custody Settlement Agreement (A–2), to permit staying with his father in the United State. However because of the unauthorized policies and practices of the U.S. Central Authority and NCMEC the Fairfax J&D Court in violation of 42 U.S.C. § 11603(a)(B-4), stayed the State court trial scheduled for February 25, 2002, to defer to subsequently filed federal action with a trail date of April 25, 2002, when Judge Ellis III refusal to abstain, *Escaf vs. Rodriguez*, 191 F. Supp.2d 685(E.D. Va. 2002, T.S. Ellis III, J.).

On June 18, 2003, the Fairfax J&D Court again disregarded its concurrent jurisdiction and the legislative mandates of Articles 2 & 11 and Chapter IV of the Treaty and the provisions of ICARA (B-1 through B-6), as well as Resolution 293 (A-7), to issue a summary order denying Isidoro's petition seeking the expedited securing of visitation rights, and stayed further pro

ceeding "pending all proceedings U.S. District Court Action" (A-23).

An immediate appeal was filed with the Fairfax County Circuit Court ("Fairfax Chancery Court") to enforce rights under the Treaty and ICARA, *Master Isidoro Rodriguez-Hazbun v. National Center for Missing and Exploited Children and Amalin Hazbun-Escaf*, Fairfax County Circuit Court No. C-185125. However, six months later on December 4, 2003, the date of the scheduled trail the Fairfax Chancery Court refused to conduct either an expedited *de novo* proceeding on Isidoro's petition for the expedited securing of visitation rights or remand the issues under the Treaty and ICARA back to the Fairfax J&D Court, and issued a summary order from the bench dismissing Isidoro's appeal holding that despite the fact that Isidoro was denied his right of a visitation, there was no final order and it lacked jurisdiction (A-22).

Because these orders of Fairfax J&D Court and Fairfax Chancery Court were final orders or appealable interlocutory orders depriving Isidoro of his fundamental rights and rights under the Treaty and ICARA, four separate Notices of Appeal were filed with the Court of Appeals of Virginia beginning on August 3, 2003, as well as motions for expedited consideration pursuant to Articles 2 and 11 of the Treaty, *Master Isidoro Rodriguez-Hazbun v. National Center for Missing and Exploited Children and Amalin Hazbun-Escaf*, Court of Appeal of Virginia Record No. 2004-03-4; No. 2758-03-4; No. 0293-04-4; and No. 3247-03-4; Fairfax County Circuit Court No. C-185125.

On April 28, 2004, the Court of Appeals of Virginia summarily denied both the Motion for Expedited Consideration under Article 2 of the Treaty, and the Motion for Judicial Notice of Resolution 293. Then on July 6, 2004, the Court of Appeals of Virginia summarily affirmed the decisions of the lower courts' refusal to comply with the mandates of Article 2, 11, and Chapter IV of the Treaty, and stating in effect that although Isidoro has been deprived of his visitation rights in the United States mandated under the Treaty and ICARA–there was no final order (A-18).

Four Petitions for Appeal were filed with the Supreme Court of Virginia challenging the summary orders of the Court of Appeals of Virginia, the Fairfax Chancery Court, and the Fairfax J&D Court. Also filed were motions for expedited consideration and the issuance of a statement for delay in conducting expedited proceeding to secure Isidoro's visitation rights (A-11), under the Joint Custody Settlement Agreement pursuant to Article 2, 11, and Chapter IV of the Treaty, the provisions of ICARA, and Resolution 293, *Master Isidoro Rodriguez-Hazbun v. National Center for Missing and Exploited Children and Amalin Hazbun-Escaf*, Supreme Court of Virginia Record No. 041217; Record No. 041283; Record No. 041481; and, Record No. 041702.

During the litigation and appeal process in *Isidoro II* since July 13, 2001, it was discovered that the Courts of the Commonwealth of Virginia have not put in place procedures for the conducting expedited proceedings as mandated under Article 2 of the Treaty.

On August 18, 2004 without complying with the statutory mandated right to permit oral argument,[6] a panel of the Supreme Court of Virginia issued an order turning the extensive record in the four Petitions for Appeal on their heads by dismissing the appeals summarily holding that Isidoro's father and Attorney of Record–did not have standing.

On August 23, 2004, Isidoro filed four petitions for an expedited rehearing *en banc by* the Supreme Court of Virginia of the panel's decision dated August 18, 2004, based on the violation of Isidoro's right of due process, equal protection and access to the court to secure on an expedited base his right to visitation and access pursuant to Article 2 and Chapter IV of the Treaty, 42 U.S.C. § 11603 and § 11601(4) of ICARA, and the failure to comply with Isidoro's statutory mandated right to oral argument. On October 1, 2004, without comment as to rights under the Treaty, the four petitions for rehearing were denied.

To date, in both *Isidoro I* and *Isidoro II*, no consideration of Isidoro's rights under the Joint Custody Agreement (A–2), and rights under the Treaty and ICARA have been ever undertaken by the Federal Courts or the Courts of the Commonwealth of Virginia. Thus since his being shanghaied on June 11, 2002, Isidoro irreparable harmed by the lost his fundamental

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[6]VSCR § 5-17(g), which reads in part that "[t]he appellant shall be entitled to state orally, in person . . . , to a panel of this Court the reasons why his petition for appeal shall be granted."[Emphasis added].

right of access to an impartial court as a citizen of the United States. Furthermore, since the filing of the Complaint in *Isidoro I* more than 616 days ago, Isidoro has been denied of his right to secure his visitation rights pursuant to Articles 2 (B--1), 11 (B--2), and Chapter IV (B--2) of the Treaty, 42 U.S.C. § 11601 (a)(4) (B--3), 51 Fed. Reg. 10,513 (1986) (B–5), and ¶2 & ¶3 Resolution 293(A–10), to his visitation rights in the United States with his father for the Summer of 2003, Christmas 2003, Summer 2004 vacations.

It is obvious from the record that the actions of the Federal and State judiciary have been based on the unauthorized policies and practices of the U.S. Central Authority and the NCMEC, and their permitting the U.S. Central Authority and the NCMEC repeated filings of misstatement of fact alleging that Isidoro's father has lost his retained residual parental rights irrespective of the Joint Custody Settlement Agreement (A-2), and obfuscation of the laws requiring an impartial judicial hearing before any amendment to the Joint Custody Settlement Agreement would be permitted to deprive Isidoro's father of these fundamental rights (A-5).

REASONS FOR GRANTING THE WRIT OF MANDAMUS AND PROHIBITION

A. Duties Are "Clear and Indisputable."

Article 1 of the Treaty states that its object is "to ensure that rights of visitations is effectively respected. Thus pursuant to 42 U.S.C. § 11601(4), 51 Fed. Reg. 10,513 (1986), Articles 21 and 29 of the Treaty, Joint

Custody Settlement Agreement and Colombian Civil and Legislative Code, *Legis*, ed. 2002, Title XII, Article 253--Isidoro has an indisputable right of visitation and access with his father.

Based on Article 1 (B-1) and Chapter IV of the Treaty (B-2), and the provisions of ICARA, as well on Resolution 293, since being shanghaied from the United States to the Republic of Colombia against his wishes as a 15 years-old, and fundamental rights as a citizen of the United States (A-1), pursuant to Article 2 of the Treaty Isidoro has sought expedited enforcement of his right to visit with his father in Virginia in accordance with the terms of the Joint Custody Settlement Agreement (A-2).

Chapter IV, Article 21 of the Treaty (B–2), specifically mandates that,

> The [U.S. Central Authority is] bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of those rights are subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.
>
> The Cental Authority, either directly or through intermediaries, . . . initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing

respect for the conditions to which the exercise of these rights may be subject.

To implement this mandate, ICARA 42 U.S.C. § 11603(a), specifically states that the courts of Virginia and the United States, "shall have concurrent original jurisdiction of actions arising under the" Treaty and ICARA. Furthermore, Article 2 of the Treaty states that the Respondents, "shall take all appropriate measures to secure within their territories the implementation of the object" of the Treaty, and to that end "use the most expeditious procedures available."(B-1).

51 Fed. Reg. 10,514 (1986), Article 21, V, D., states that, "[i]n addition to or in lieu of invoking Article 21 to resolve visitation-related problems, under Article 18, 29 and 34 an aggrieved parent whose access rights have been violated may bypass the CA and the Convention and apply directly to the judicial authority of a Contracting State for relief under other applicable laws."

Thus the U.S. Central Authority, the NCMEC, the Courts Federal and Courts of Virginia in *Isidoro I* and *Isidoro II* have clear legal duties to be performed pursuant to Article 2 and Chapter IV of the Treaty, and these ministerial and judicial duties are "so plainly prescribed as to be free from doubt." *Naporoano Metal & Iron Co. v. Secy of Labor of the United States*, 529 F.3rd 537 (3rd Cir 1976).

However in response to Isidoro's various petitions to enforce visitation rights---the U.S. Central

Authority and the NCMEC have compounded their illegal policies and actions alleged on January 27, 2003 in *Isidoro I*, by making repeated intentional misstatements of fact and law as to their duty to secure international visitation rights in both *Isidoro I* and *Isidoro II*.[7]

Thus in *Isidoro I*, the federal courts (A-7, A-24, A-28, a-30, A-33, A-35, and A-37), and in *Isid II* the courts of the Commonwealth of Virginia (A-7, A-11, A-17, A-18, A-22, and A-23),[8] have acted outside of their

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[7]The record in *Isidoro I* and *Isidoro II* confirms that both the Federal and Virginia courts followed the policies and teachings of the U.S. Central Authority and the NCMEC's that the Treaty usurped the fundamental rights of U.S. citizens which pre-existed the Constitution and that are guaranteed by the by the 9th Amendment. Thus the record confirms that based on the U.S. Central Authority and the NCMEC policies the courts disregard the father/son relationship, and Isidoro's father's residual parental rights under the Joint Custody Settlement Agreement (A-2). Finally, the record confirms that the courts have implemented the U.S. Central Authority and the NCMEC policies to limit the use of the exceptions under the Treaty, i.e. the Hon. Judge T.S. Ellis III and the Fourth Circuit assuming the "zone of war" precedent under *Friedrich v. Friedrich*, 78 F.3rd 1060 (6th Cir. 1996), *see* "Grave Risk of Harm" under Article 13(b) of the Hague Convention on International Child Abduction: What Constitutes a War? " © 2002 National Legal Research, Group, Inc.; *see also,* Laura W. Morgan, "Grave Risk of Harm" Under Article 13(b) of the Hague Convention on International Child Abduction: What Constitutes a War?, 14 Divorce Litig. 133 (July 2002).

[8]

Although Isidoro's father is not a party in *Isidoro II*, because the order of the panel of the Supreme Courts of Virginia surreally dismissed Isidoro's appeal based on their summary statement

jurisdiction in refusing to expeditiously enforce the Isidoro's visitation rights under the Joint Custody Agreement pursuant to Article 2, Article 11, and Chapter IV of the Treaty, and Resolution 293.

Consequently Isidoro right to a writ of mandamus and prohibition is "clear and indisputable." *Kerr v. United States Dist. Ct.*, 426 U.S. 394, 96 S.Ct. 2119 (1976), since their issuances are necessary compel the performance of the judicial and ministerial duties, *Work v. United States ex Rives*, 267 U.S. 175, 45 S.Ct. 252 (1925), and necessary to correct the abuses of discretion in the policies and practices of the U.S. Central Authority and the NCMEC being taught and implemented to date by the Federal Courts and the Courts of the Commonwealth of Virginia in *Isidoro I* and *Isidoro II*, *Haneke v. Secy Health, Education & Welfare*, 535 F.2d 1291 (D.C. Cir. 1976).

Finally sovereign immunity nor judicial immunity bar an action seeking a writ of mandamus where as here it is alleged that the U.S. Central Authority, the NCMEC, and the Federal and State judges are

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unsupported by fact or law that Isidoro's father as Undersign counsel "has no authority to sue in his son's name." (A- 17), it is important to underscore that in accordance with the Joint Custody Agreement (A-2), Articles 8 & 21 of the Treaty, Civil Code of the Republic of Colombia, Isidoro's father has residual parental and visitation rights. Thus pursuant to Virginia Code § 20-124.1, Isidoro's father has the status of a "person with legitimate interest" who has standing to sue in Isidoro's name. *See Elk Grove Unified School District et al., Newdow et al.,* United States Supreme Court No. 02-1624, decided June 14, 2004.

acting unconstitutionally and in excess of their statutory authority in intentional violation of the Treaty and ICARA. *Washington Legal Found v. U.S. Sentencing Comm'n*, 89 F.3rd 897, 901-902 (D.C. Cir. 1996).

B. Isidoro Has No Alternative Relief Available

The record in both *Isidoro I* and *Isidoro II* discloses that there have been systematic and repeated official actions in support of the policy and practice of the U.S. Central Authority, the NCMEC, their employees, attorneys, outside counsels, and agents to disregard and frustrate meaningful access to the Federal and State court for impartial consideration of Isidoro's rights under the treaty.

In summary, in all of the proceedings the U.S. Central Authority and the NCMEC have intentionally made repeated misstatements of fact and law, and have repeatedly abused their status and political connections as Federal government entities with the courts in *Isidoro I* and *Isidoro II*, in violation of: (i) Article 2 and Chapter IV, Rights of Access, Articles 21 and 29, of the Treaty; (ii) 42 U.S.C. § 11603 of ICARA: (iii) Joint Resolution 293 dated May 23, 2000 (A-7); (iv) Isidoro's rights under the Joint Custody Agreement to visitations with his father; and, (v) Isidoro's fundamental rights in the father/son's relationship that predate the U.S. Constitution.

Because Isidoro has a clear right to the relief sought, *Carter v. Seamans*, 411 F.2d 767 (5th Cir. 1969), and over the past 616 days he has exhausted all

avenues in both Federal and State Court to secure the expedited compliance with the Treaty, there is no other adequate alternative remedy available to enforce his rights before the beginning of his 2004 Christmas Vacation on December 6, 2004-in 70 days, and expiration of the terms of the Treaty upon his becoming 16 years old on March 10, 2005, other than the issuance by this Court of a writ of mandamus and prohibition. *Holmes v. United States Bd. of Parole*, 541 F.2d 1243 (7th Cir. 1976), they must be grated.[9]

CONCLUSION

Since January 27, 2003, the Federal and State courts in *Isidoro I* and *Isidoro II*, have acted in collusion with the U.S. Central Authority and the NCMEC to disregard their judicial and ministerial duties under the Treaty, the provisions of ICARA, and Resolution 293 (A-7, and for 616 days have refused to expeditiously secure Isidoro's right of visitations in the United States. Thus a writ of mandamus and prohibition must be

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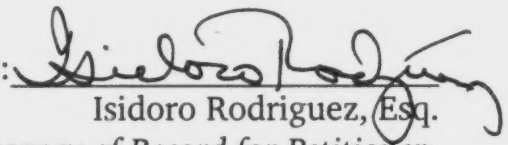
[9] The critical factor in consideration in determining the propriety of resort to a writ of mandamus is the fact that there is not alternative remedy. *Cartier v. Secretary of State*, 506 F.2d 191 (D.C. Cir. 1974); *see also Heckler v. Ringer*, 466 U.S. 602, 616 (1984)(mandamus "is intended to provide a remedy for a plaintiff only if he has exhausted all other avenues of relief . . . ."); *Association of Am. Med. Colleges v. Califano*, 569 F.2d 101, 110 n. 80 (D.C. Cir. 1977)("[t]he writ generally is denied when alternative remedies are available"); *Simpson v. Reno*, 902 F.Supp. 254, 256-58 (D.D.C 1995), *aff'd* 1996 WL 56625 (D.C. Cir. 1996); *Public Citizen v. Kantor*, 864 F.Supp. 208, 212-14 (D.D.C. 1994).

issued to Respondent to secure immediately within 70 days, Isidoro's right of visitations with his father for his Christmas 2004 and his other Vacations in 2005, 2006, and 2007.

Respectfully submitted,

By: 

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